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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/073,539      | 02/11/2002  | Brian Wilson         | 105005-0073         | 5229             |

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EXAMINER

FETSUGA, ROBERT M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3751

DATE MAILED: 03/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/073,539

Applicant(s)

WILSON ET AL.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 7, 9-12, 15 and 17-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17, drawn to a dispensing unit, classified in class 4, subclass 231.

II. Claims 18-20, drawn to a refill, classified in class 206, subclass 581.

III. Claims 21-24, drawn to a container, classified in class 4, subclass 222.

The inventions are distinct, each from the other because:

Inventions I and II,III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the limitations set forth in claims 18 and 21 are not relied upon in claims 1, 15 and 16. The subcombination has separate utility such as without a common delivery means.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification which would lead to divergent

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fields of search, restriction for examination purposes as indicated is proper.

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I: Figs. 1-8;

Species II: Figs. 9 and 10; and

Species III: Figs. 11 and 12.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 1 considered to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37

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CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with John F. McKenna on February 26, 2003 a provisional election was made with traverse to prosecute the invention of Group I, Species I, claims 1-8 and 13-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 9-12, 15 and 17-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. It is noted claims 7 and 15 require two liquid formulations which is tailored to the embodiment of Species II.

X 4. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in United Kingdom on February 9, 2001. It is noted, however, that applicant has not

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filed a certified copy of the noted application as required by  
35 U.S.C. 119(b).

*priority*  
5. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper (pg. 13 lns. 1-2). Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

6. The disclosure is objected to because of the following informalities: page 8, line 18, "Figure 5" (second occurrence) apparently should be --Figure 4--.

Appropriate correction is required.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "delivery means" set forth in claim 1, "colourant" set forth in

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claim 14, and "means" set forth in claim 16, could not be found in the specification.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Creed.

The Creed reference discloses a dispensing unit comprising: a first container 4 including a liquid formulation (Fig. 8); a second container 5 including a formulation 20; delivery means 8,21; and a strap 10, as claimed.

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10. Claims 5, 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creed and Klinkhammer et al.

Re claims 5, 8 and 13, although the formulations of the Creed dispensing unit may not include bleach, as claimed, attention is directed to the Klinkhammer et al. (Klinkhammer) reference which discloses an analogous dispensing unit which further includes a formulation 26 which may be bleach (col. 1 lns. 20-21). Therefore, in consideration of Klinkhammer, it would have been obvious to one of ordinary skill in the art to associate bleach with the Creed dispensing unit in order to clean a toilet. Re claim 14, Klinkhammer further teaches (col. 1 lns. 21-23) it would have been obvious to associate a colorant with the formulation in order to produce a pleasing effect.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Creed and Hammond et al.

Although the second formulation of the Creed dispensing unit may not include an acidic component, as claimed, attention is directed to the Hammond et al. (Hammond) reference which discloses an analogous dispensing unit which further includes a formulation which may include an acidic component (col. 2 lns. 58-60). Therefore, in consideration of Hammond, it would have been obvious to one of ordinary skill in the art to associate an



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acidic component with the Creed dispensing unit in order to remove limescale.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Boiteau et al. reference discloses a dispensing unit having features in common with the instant invention.

13. Claim 16 is allowable.

14. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

15. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga  
Primary Examiner  
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